WO IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA Akmal J. Robinson, No. CV 09-397-PHX-FJM Plaintiff, **ORDER** VS. Joseph M. Arpaio et al, Defendant. 

The court has before it defendants' Motion for Summary Judgment (doc. 35). No response has been received. Our *Rand* order (doc. 37) was returned in the mail because plaintiff was no longer in custody (doc. 39). Plaintiff has not filed a notice of change of address. Defendants filed a notice documenting their attempts to locate plaintiff and provide him a copy of their motion (doc. 40). Their review of DOC records indicated that plaintiff was released from prison on September 21, 2010, but we have still not heard from him. The docket indicates that we last heard from plaintiff on December 4, 2009. Yet LRCiv 83.3(d) requires unrepresented incarcerated persons to file a notice of change of address with the clerk within 7 days after the effective date of the change.

We conclude that plaintiff has abandoned his claim. He has simply failed to prosecute this action. All of the factors under Rule 41(b), Fed. R. Civ. P. counsel in favor of a dismissal with prejudice. The public has an interest in the resolution of litigation, on the

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1	merits, if possible. The court has an interest in managing its docket. The defendants have
2	been subjected to two years of litigation—they should not have to be subjected to that ordeal
3	and cost again. There are no less drastic alternatives—a dismissal without prejudice fails to
4	compensate the defendants for their ordeal and subjects them to the risk of double litigation.
5	They have filed and served a motion for summary judgment. The plaintiff had an obligation
6	to respond. See Rule 56(e), Fed. R. Civ. P. LRCiv 56.1(b). LRCiv 7.2(i). This case is too
7	mature to dismiss without prejudice.
8	Accordingly, it is ORDERED that the reference to the magistrate judge is withdrawn,
9	this action is DISMISSED WITH PREJUDICE under Rule 41(b) for lack of prosecution, and
10	defendants' Motion for Summary Judgment is DENIED on grounds of mootness. (Doc. 35).
11	DATED this 22 <sup>nd</sup> day of March, 2011.
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13	Frederick J. Martone Frederick J. Martone
14	Frederick J. Martone United States District Judge
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